

IN THE MATTER OF FACT-FINDING

BETWEEN

REPORT OF FACT-FINDER

CITY OF COUNCIL BLUFFS, IOWA

February 11, 2004

AND

COUNCIL BLUFFS ASSOCIATION OF PROFESSIONAL
FIREFIGHTERS, LOCAL #15

I. APPEARANCES

For the City:

Mr. James Brick, Attorney at Law and Spokesperson

Mr. Terry Mauer, Director of Finance and Personnel

Ms. Cindy Lynch, Assistant Director of Personnel

Mr. Alan Byers, Fire Chief

Mr. Matt Brick, Labor Attorney for City

For the Union:

Mr. MacDonald Smith, Attorney at Law and Spokesperson

Mr. David Phillips, Local #15 Negotiating Team Member

Mr. Kent Cooper, Local #15 Negotiating Team Member

Mr. Mike Mattox, Local #15 Negotiating Team Member

Mr. Chris Sorensen, Local #15 Vice President

Mr. John Filbert, Local #15 Treasurer

Mr. Mike Godbout, Local #15 Secretary

II. BACKGROUND

The undersigned was selected by mutual agreement of the parties to conduct a fact-finding hearing under the statutory impasse procedures of the Iowa Public Employment Relations Act, Sections 20.19 and 20.21. The hearing was held Friday, January 30, 2004 at the Council Bluffs City Hall, Council Bluffs, Iowa. The hearing was formally opened at 10:00 a.m. and closed at 2:30 p.m. after both parties' presentation of evidence and oral argument. The parties agreed that this report should be completed and mailed within fifteen days of the close of the hearing (postmarked no later than Saturday, February 14, 2004). The parties also agreed that they wished to fax post-hearing briefs within five days (no later than 5:00 p.m., Wednesday, February 4, 2004).

The City of Council Bluffs (hereafter also referred to as "City" or "Employer") is located in far western Iowa along the Missouri River. This is the western border of the State of Iowa and directly across the river is the City of Omaha, Nebraska. The International Association of Firefighters, Local #15 (hereafter referred to as "Local #15" or "Union") is the certified bargaining representative for employees in the ranks of firefighter, firefighter/paramedic, fire engineer and fire captain. The unit consists of approximately 100 employees¹ and the parties have been bargaining for many years. The last agreement between the parties became effective on 07/01/2002 and expires on 06/30/2004. (Joint Ex. #1). The parties agree that the fact-finder should recommend a one-year agreement for the current negotiations/impasse.

The following issues were presented to the fact-finder: (1) hazardous materials pay, (2) EMS pay, (3) transfer procedures, (4) health insurance and (5) base wages.

¹ Precisely 101 employees on this date. Twenty-six (26) Captains, twenty-three (23) Engineers and fifty-two (52) Firefighters/Firefighter Paramedics. (City Ex. #2).

Although there are no statutorily mandated criteria to be applied or considered by fact-finders under the Iowa Public Employment Relations Act, the statute does list specific criteria to be considered by an interest arbitrator. Section 22, Paragraph 9 of the Iowa Public Employment Relations Act directs arbitrators to consider, in addition to any other relevant factors, the following factors:

1. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
2. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
3. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
4. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

While recognizing that the present matter is not an arbitration proceeding, the assessment of the evidence and the findings and recommendations contained herein have taken into consideration the above criteria.

The parties have submitted comparability exhibits from the five (5) cities that have a greater population than Council Bluffs (statewide) and the six (6) cities that have a smaller population than Council Bluffs. The City also includes an additional city, Burlington, but the fact-finder will focus on those cities that were mutually agreed to be comparable.

III. ISSUE-BY-ISSUE DISCUSSION AND RECOMMENDATION

Although the following discussion is presented in an issue-by-issue order, the fact-finder has studied all of these impasse issues as sub-parts of a combined total impasse and the fact-finder's recommendations are to be understood in their total context.

1. Hazardous Material Pay:

The Union is proposing to add the following new article/language:

The provisions in this section are contingent upon the establishment and existence of a regional hazmat team. The payments described below shall become effective on the first full pay period following the execution and initial payment of the regional hazmat contract that calls for service from the Council Bluffs Fire Department.

Employees officially designated as part of the fire department hazmat team shall be paid a stipend of \$500 per year. Such payments shall be made on a bi-weekly basis.

An employee who is called to respond to a regional hazmat incident shall receive a hazmat premium equal to an additional 50% of the contractual hourly rate per hour of work from the time the call is made until the employee returns to normal service. Hazmat premiums will also apply to time spent in training or other services to the region.

The Union stresses that its proposal is contingent upon the establishment and existence of a regional hazmat team which would provide a source for contract payments. They argue that four of the comparable cities provide stipends that are similar to or greater than their proposal. (Union Ex. Hazmat #2).

The fact-finder notes that the union's proposal has two components: (1) a \$500 yearly stipend, and (2) premium pay of an additional fifty percent (50%) of the hourly rate per hour of hazmat work. The Union's comparability exhibit only addresses the stipend aspect of their proposal.

The City opposes the addition of stipends and/or premium pay for hazmat service. The City argues that none of the comparability cities provide for premium pay as proposed by the Union. But the City does acknowledge that three or four comparability cities do pay a stipend similar to the Union's proposal. (City Ex. #31).

The fact-finder cannot recommend the Union's premium pay proposal for hazmat services since there is no comparability support at this hearing. However, the fact-finder does recommend the union's language for a contingent stipend of \$500 per year to be paid on a bi-weekly basis. There is comparability support for such a stipend and it is clearly contingent upon the establishment and existence of a regional hazmat team contract.

2. EMS stipend:

The Union is proposing to add a new article/language for a medic unit stipend:

Stipend pay for personnel working on the Medic Units:

EMT-B: \$10 per day

EMT-I: \$20 per day

EMT-P: \$30 per day

The Union submits that the City of Clinton has a Medic Unit Stipend that pays \$3.00 for each ambulance call responded to. (Union Ex. EMS #1). The City responds that this is the only comparable city that pays such a stipend and that the Union's proposal is not supported by the comparability cities. (City Ex. #33).

The fact-finder concludes that there is insufficient comparability evidence to support a recommendation of the Union's proposed EMS stipend.

3. Transfer Procedures:

The Union proposes the following new article/language for transfer procedures:

Employees will have the opportunity to request a transfer to a shift position vacated due to separation from employment, transfer to a 40 hour position, or promotion. The request must be in writing within the fourteen (14) day posting period and shall state the shift, station and apparatus assignment that the employee requests to be assigned to.

Two (2) subsequent openings caused by awarding a requested transfer to an open position will also be posted, but no more than three (3) openings will be posted per separation, transfer, or promotion. The position will be posted in each station for a fourteen (14) day posting period and will state the shift, station and apparatus vacancy. If two (2) or more employees apply for the save opening, selection will be made by greatest time in rank of the employees who first meet any required special certifications or training for the position. Once the open position is filled all remaining transfer requests related to the position shall be invalid.

An employee's request for a transfer may be denied based on the position requiring a special certification or training. Examples of special certifications would include, but no be limited to Paramedic (Specialist), hazmat technician, and specialized rescue training or certification.

Vacant positions may be temporarily filled by the Fire Chief, for transfer or by reassignment of personnel with least time in rank until the open position is posted and bid upon, including those transfers needed to equally distribute employees between the three (3) shifts.

Vacant 40 hour Captain, Engineer, and Firefighter positions will be posted for employees to express, in writing, an interest in the position. The Fire Chief will give consideration to employees requesting a transfer to a 40 hour position, but reserves the right to place employees in the position other than those employees requesting a transfer, if those employee (sic) do not meet the requirements listed on the posting. If a 40 hour position needs to be filled, and no request is received, personnel with the least time in rank shall be involuntarily transferred to that position for no longer than one (1) year. Said employees shall not have been previously forced into a forty (40) hour position.

The City rejects the addition of the Union's proposed new article and argues that such language is not supported by the City's other contracts (City Ex. #34) nor is it supported by the comparability cities. (City Ex. #35).

Entirely new contract language of this nature should not be recommended by a neutral without a clear demonstration of need and strong comparability support. As such, the fact-finder is unwilling to recommend the Union's proposed transfer article/language.

4. Health Insurance:

The Union is proposing to leave the current contract language regarding health insurance unchanged. Currently, the employer pays 100% of the cost for employee and dependent dental and eye care insurance, and all but \$1.20 per year for employee health insurance and all but \$10.00 per month for dependent health insurance. The City is proposing that it will pay 95% of the cost of health insurance (both employee and dependent coverage) and the employee will pay the remaining 5% of the cost. The City will continue to pay 100% of the optical and dental insurance costs. The City self-insures and uses an accrual method to fund these insurance coverages. At this time, the City is projecting that next year's accrual cost will increase by twenty-five percent (25%). City Exhibit #9 reports the accrual rates compared to actual costs for fiscal years 1998 through 2004.

The City argues that employees should pay a greater amount toward their health insurance. As such, the City is proposing that employees pay five percent (5%) of the health insurance accrual rate (employee and dependent coverage). The Union argues that current health insurance coverages and costs are similar to the comparability cities and that there is no need for change. (Union Ex. Insurance #2 through #8). The Union believes that there is no need to change the current language and that changing the

language from a flat-dollar amount to a percentage formula represents a fundamental philosophical change from past bargaining practice.

The City argues that its proposal is supported by the comparability cities. (City Exs. #19 and #20). The City stresses that health insurance needs to be considered in the broader context of dental and eye insurance, too. The City notes that all other City employees will be contributing more towards health insurance than the firefighters. (City Ex. #21). City Exhibit #22 highlights several cities' attempts to control or limit increases in health insurance costs by either increasing the employee contributions and/or reducing coverage, raising deductibles and out-of-pocket maximums, etc.

The fact-finder agrees that switching from a flat-dollar formula to a percentage formula represents a fundamental philosophical change from the parties' current contract. Such a change should not be recommended by a neutral without strong documentation that the existing contract language is causing unreasonable hardship to one of the parties and that the other party is unreasonably refusing to agree to any change(s) which would address said hardship. There is a long history of prior bargaining by these parties and a neutral cannot know what prior "bargains" might be destroyed or disrupted by unnecessarily recommending fundamental changes to previously negotiated contract language.

However, the fact-finder is persuaded that there should be an increase to what the employees contribute toward health insurance since all other City employees are contributing more. As such, the fact-finder is recommending that the employees' contributions toward employee health insurance be increased to \$10.00 per month and that the contribution toward family health insurance be increased to \$24.00 per month.

This is consistent with the City's police contract (Union Ex. Insurance #1 and City Ex. #21) and maintains the long-standing flat-dollar philosophy of the parties' past bargaining history.²

5. Base Wages:

The Union proposes the following increase in wages: Steps 3-6 a one percent (1%) pay increase; Steps 7-10 a three percent (3%) pay increase; Steps 11-12 a seven percent (7%) pay increase; effective July 1, 2004. The City is offering a two percent (2%) across-the-board wage increase effective July 1, 2004.

Both parties entered several exhibits summarizing firefighter, engineer and captain salaries at Council Bluffs with the comparability cities. (Union Wages Exs. #1 through #29 and City Exs. #23 through #28). The fact-finder has studied all of these exhibits and recognizes the comparability challenge caused by some cities utilizing the rank of lieutenant and the different ways that longevity systems are built into salary schedules. After careful study, the fact-finder is not persuaded that there is any one rank or any group/range of steps at Council Bluffs that is in need of "special" salary increases.

A neutral should be careful when recommending salary increases to an already existing schedule previously negotiated by the parties so as not to unknowingly disrupt the parties' past bargain(s). As such, the fact-finder is unwilling to recommend the Union's proposed wage increases that vary by step-ranges and, instead, the fact-finder recommends an across-the-board wage increase of three percent (3%). This would appear to be consistent with increases expected for other employees at Council Bluffs.

² The fact-finder recognizes that the police contract differentiates the amount paid for family coverage by employees hired after July 1, 2003. The fact-finder is not recommending this differentiation. That aspect is best left for subsequent bargaining.

(City Ex. #29). This recommendation is also consistent with the parties' past bargaining history and is supported by comparability settlements reported to date. (City Ex. #30 and Union Ex. Wages #30).³

³ The Union's exhibit reports wage increases for 2004-2005 in known comparability cities as:

Cedar Rapids	2.75%
Davenport	4.00%
Sioux City	4.04%
Waterloo	3.50%
Iowa City	2.75%
Ames	3.25%
Bettendorf	3.00%

For an average 2004-2005 increase of 3.327%

The City's exhibit reports wage increases for these same cities as follows:

Cedar Rapids	1.50%
Davenport	4.00%
Sioux City	2.25%
Waterloo	3.50%
Iowa City	2.75%
Ames	3.00%
Bettendorf	3.00%

For an average 2004-2005 increase of 3.00%

V. SUMMARY

The fact-finder recommends the following new article/language for hazardous materials pay:

The provisions in this section are contingent upon the establishment and existence of a regional hazmat team. The payments described below shall become effective on the first full pay period following the execution and initial payment of the regional hazmat contract that calls for service from the Council Bluffs Fire Department.

Employees officially designated as part of the fire department hazmat team shall be paid a stipend of \$500 per year. Such payments shall be made on a bi-weekly basis.

The fact-finder recommends that the employees' contribution toward employee health insurance be increased to \$10.00 per month and that the contribution toward family health insurance be increased to \$24.00 per month.

The fact-finder recommends an across-the-board wage increase of three percent (3%).

All of the issues that were presented have been discussed and it is hoped that the fact-finder's recommendations will prove helpful to the parties.

Dated this 11th day of February,
2004, Sycamore, Illinois.

Respectfully submitted,



Curtiss K. Behrens
Fact-Finder

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2004 FEB 13 3:11:32
U.S. DEPT. OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

CERTIFICATE OF SERVICE

I certify that on the 11th day of February, 2004, I served the foregoing Report of Fact-Finder upon each of the parties to this matter by mailing a copy to them at their respective addresses as shown below:

Mr. MacDonald Smith
P.O. Box 1194
Sioux City, Iowa 51102

Mr. James Brick
550 39th Street, Suite 200
Des Moines, Iowa 50312

I further certify that on the 11th day of February, 2004, I submitted this Report for filing by mailing it to the Iowa Public Employment Relations Board, 514 East Locust Street, Suite 202, Des Moines, Iowa 50309-1912.


Curtiss K. Behrens, Fact-Finder